SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR C.G.

W.P. No. 7641.../2006

PETITIONER
DEFENDENT

Maniram Tamrakar S/o Lokman Prasad Tamrakar Aged bout 45 years R/o Sarkanda, Tahsil and District-Bilaspur (C.G.)

P.R. No. 3814/06
Presented by Shri O.P. Yadav
dated 21/12/06

VERSUS

REPONDENTS
PLAINTIFFS

1. Kunjbihari, S/o Late Dhanush-ram aged about35 years.
2. Rasbihari S/late Danhushram Aged about 31 years.
3. Brijbihari S/oLate Dhanushram aged about 28 years
4. Vipinbihari S/oLate Dhanush-ram aged about 24 years.
5. Smt.Kuntibai, widow of Late Shri Danushram Aged about 59 years
6. Smt. Keerti lili Widow of Mohan Aged about 33 years

All 1 to 6 Residents of Gram Birha District Bilaspur. (C.G)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSITUTION OF INDIA

(36)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P...No...764/**सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	17.01.2007 Shri Ashok Kumar Shukla, counsel for the petitioner. Heard. The petitioner has filed this petition under Article 227 of Constitution of India against the impugned order of Annexure-P/7 dated 10th of March 1997 whereby the objection of the plaintiff against the counter claim allowed and on the ground that the same has been preferred belatedly after the plaintiff has closed his evidence. Learned counsel for the petitioner submits that the order impugned is contrary to law as the defendant preferred counter claim only after the plaintiff was permitted to amend his plaint to incorporate the relief of declaration of title in addition to the relief of damages as the original suit was only for recovery of possession and damages. I have heard counsel for the petitioner. I have perused the impugned order and the documents annexed with the petition. The suit was filed by the petitioner on 02/08/83. From the perusal of the plaint it is evident that the plaintiff has pleaded that he had purchased the suit land through registered sale deed in the year 1965 and had obtained possession and thus the plaintiff has claimed the ownership of the suit land at the time of filing the instant suit.	

P.T.O.

XI-HC-78

(37)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(C)/ **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	The defendant has filed his written statement in the year 1983 however he did not set up any counter claim. In his written statement initially the suit was dismissed. The plaintiff preferred appeal and the matter was remanded back to the trial Court and thereafter the plaintiff amended his suit to incorporate the relief of declaration of title in the year 1995. The defendant has set up the counter claim of Annexure P-5 for the first time on 17.02.97 after the plaintiff has closed his evidence and the matter was already fixed for recording of defendants' evidence. In view of the above facts this Court is of the considered opinion that cause of action if any available to the petitioner at the time of filing is written statement. Thus, the Court below has not committed any illegality in passing the impugned order which calls for interference. In the result the petition being devoid of substance is dismissed at the admission stage. **Sd/-** **Dhirendra Mishra** **Judge**	

P.T.O.